HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 5283 of 2001 (MS)

(Old No. 1839/1984)

1. Mando Nain Badoni s/o Sri Kamal Nain Badoni
2. Raju Narain Badoni s/o Sri Kamal Nain Badoni
3. Jagar Nain Badoni s/o Sri Kamal Nqan Badoni
4. Smt. Kaushalya Devi w/o late Kamal Nain Badoni
5. Smt. Magneshwari Devi w/o Kamal Nain Badoni
   All residents of 262, Khur Buda Mohalla, Dehradun

..... Petitioner

Versus

1. District Judge, Dehradun
2. Rent Control and Eviction Officer, Dehradun
3. Amar Shahed Sri Dev Suman Bal Patika Nursery School through Sri Arvind Mohan Badoni

..... Respondents

Sri B.P. Nautiyal, Advocate for the petitioner
Standing counsel for the respondents.

Dated: 25.8.2006

Hon'ble Rajesh Tandon, J.

Heard Sri B.P. Nautiyal for the petitioners and Standing counsel for the respondents.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the order dated 17.7.1981 and the orders dated 28.123.1981, 15.4.1981 and 29.10.1983 passed by the respondents no. 2 and 1 respectively.

Briefly stated Sri Arvind Mohan filed an application for allotment of the house in question. The Rent Control and Eviction Officer has sent for the report of Rent Control Inspector. However, the Rent Control and Eviction Officer has declared the house in question as vacant on 26.5.1981 and on

17.7.1981 the allotment was made in favour of the respondent no. 3. On 17.7.1981 to the predecessor of the petitioner namely Sri Kamal Nain Bodoni filed the application for setting aside the allotment order, which was rejected by the R.C. & E.O. on 28.12.1981. Thereafter, the petitioners have filed a revision against the said order which was dismissed by the District Judge vide order dated 15.4.1982 on the ground that revision was not maintainable.

From the perusal of the order it is evident that it was a case where allotment order was challenged by the predecessor of the petitioners in revision. It is well settled that the order passed under section 16 (1) of U.P. Act no. 13 of 1972 revision is maintainable before the District Judge under section 18 of the Act. Similar view has been taken in Achal Misra vs. Rama Shankr Singh (2000) 6 SCC 694, it has been held that any final order passed by the R.E. & E.O. is amenable to the revisional jurisdiction.

In view of the above, the order dated 15.4.1982 passed by the District Judge, Dehradun is set aside. The Case is remanded to the District Judge, Dehradun for deciding afresh in accordance with law after affording opportunity of hearing to both the parties.

Accordingly, writ petition is allowed. No order as to costs.

Dated: 25.8.2006 **Rajesh Tandon, J.**

*Dhyani